

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

NICK PEARSON, FRANCISCO PADILLA,  
CECILIA LINARES, AUGUSTINA BLANCO,  
ABEL GONZALEZ, and RICHARD JENNINGS,  
On Behalf of Themselves and All Others  
Similarly Situated,

Plaintiffs,

v.

NBTY, INC., a Delaware corporation; and  
REXALL SUNDOWN, INC., a Florida  
Corporation; and TARGET CORPORATION, a  
Minnesota Corporation,  
Defendants.

Case No.: 11 CV 07972

CLASS ACTION

**Judge James B. Zagel**

**PLAINTIFFS' MOTION  
FOR LEAVE TO FILE  
MEMORANDUM OF LAW  
IN SUPPORT OF MOTION FOR  
FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT  
UNDER SEAL**

TO: All Parties and Their Attorneys of Record:

Plaintiffs Nick Pearson, Francisco Padilla, Cecilia Linares, Augustina Blanco, Abel Gonzalez, and Richard Jennings ("Plaintiffs"), through their counsel, hereby move for leave to file under seal their Memorandum of Law in Support of their Motion for Final Approval of Class Action Settlement and Award of Attorneys' Fees and Expenses and Incentive Awards. In support hereof, Plaintiffs state as follows:

1. Plaintiffs have redacted portions of the Memorandum of Law to preserve the confidentiality of sales data and marketing information that belongs to Defendants and/or their business associates. Defendants have represented to Plaintiffs that this information is, in some cases, subject to a confidentiality agreement with a third party,

and is information that if publicly disclosed would detrimentally impact their competitive position in the market.

2. To the extent that certain documents referenced in Plaintiffs' Memorandum of Law were previously produced in litigation, they were produced pursuant to protective orders entered in the relevant cases. See *Cardenas v. NBTY, Inc.*, No. 2:11-cv-01615-TLN-CKD, Stipulation and Protective Order [D.E. 58] (E.D. Cal. Aug. 17, 2012); *Jennings v. Rexall Sundown, Inc.*, No. 1:11-cv-11488-WGY, Joint Confidentiality Stipulation and Protective Order [D.E. 37] (D. Mass. June 1, 2012).

3. Plaintiffs have arranged for courtesy copies of both the public-record (redacted) and the sealed (unredacted) versions of their Memorandum of Law to be provided to the Court immediately. Also, all Parties, including Defendants, have arranged for courtesy copies of all exhibits to the Joint Response to Objections (some of which are referenced in Plaintiffs' Memorandum of Law) to be provided to the Court immediately, in both the public-record (redacted) and the sealed (unredacted) versions.

4. Plaintiffs will electronically file public-record (redacted) versions of their Memorandum of Law, and will serve the same on the Objectors or their Counsel listed in the service list attached hereto.

5. Plaintiffs will serve unredacted versions of their Memorandum of Law on the Objectors or their counsel listed in the service list attached hereto, provided that the Objectors or their counsel comply with the Protective Order entered in a related case, *Cardenas v. NBTY, Inc.*, No. 2:11-cv-01615-TLN-CKD (E.D. Cal.), which requires persons to execute a Confidentiality Undertaking before reviewing any confidential materials subject to that Order. A copy of the *Cardenas* confidentiality Stipulation and

Protective Order and the Undertaking will be enclosed with the public-record (redacted) version of Plaintiffs' Memorandum of Law served upon the Objectors or their counsel.

6. Wherefore, pursuant to Local Rule 26.2, Plaintiffs respectfully request an order sealing the unredacted version of their Memorandum of Law. In the event this Motion is granted, Plaintiffs will electronically file a sealed version of their Memorandum of Law.

Dated: September 4, 2013

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### CERTIFICATE OF SERVICE

I hereby certify that on September 4, 2013, a true and correct copy of the following document was electronically filed and served on all counsel of record in this action who are deemed to have consented to electronic service via the Court's CM/ECF system: **Plaintiffs' Motion for Leave to File Memorandum of Law in Support of Motion for Final Approval of Class Action Settlement Under Seal.**

I also certify that the foregoing document is being served by U.S. Mail this day on all counsel of record or *pro se* parties identified below who are not authorized to receive electronically Notices of Electronic Filing.

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